

AMENDED IN SENATE APRIL 18, 2017

SENATE BILL

No. 504

Introduced by Senator Wieckowski

February 16, 2017

An act to add ~~Article 8.5 (commencing with Section 110961) to Chapter 5 of Part 5 of Division 104 of Section 110961~~ to the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

SB 504, as amended, Wieckowski. ~~Protecting Californians from Synthetic Food Dyes Act. Synthetic food dyes.~~

Existing federal law, the Federal Food, Drug, and Cosmetic Act, regulates, among other things, the quality and packaging of foods introduced or delivered for introduction into interstate commerce. Existing state law, the Sherman Food, Drug, and Cosmetic Law, regulates potentially hazardous foods and establishes parameters for studying and monitoring chemicals in processed foods.

This bill would direct the Office of Environmental Health Hazard Assessment to review scientific literature, as specified, on the risks to children who consume synthetic food dyes, if any, and issue a report that answers specified questions no later than July 1, 2019.

~~Existing federal law, the Federal Food, Drug, and Cosmetic Act, regulates, among other things, the quality and packaging of foods introduced or delivered for introduction into interstate commerce and generally prohibits the misbranding of food. Existing federal law, the Nutrition Labeling and Education Act of 1990, governs state and local labeling requirements, including those that characterize the relationship of any nutrient specified in the labeling of food to a disease or health-related condition. Existing state law, the Sherman Food, Drug,~~

and Cosmetic Law, generally regulates the labeling of food. Violation of these provisions is a crime.

~~This bill would establish the Protecting Californians from Synthetic Food Dyes Act, which would make it a crime for a person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the State of California food that contains synthetic dyes without a prescribed label, either on the package or on the shelf or bin where the food is displayed for bulk foods. The bill would require prescribed language to be included on the menu or menu board of a restaurant when a dish includes synthetic food dyes. By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 110961 is added to the Health and Safety~~
- 2 ~~Code, to read:~~
- 3 ~~110961. (a) On or before December 1, 2018, the Office of~~
- 4 ~~Environmental Health Hazard Assessment shall review existing,~~
- 5 ~~published, peer-reviewed scientific literature on the risks, if any,~~
- 6 ~~to children who consume synthetic food dyes. On or before July~~
- 7 ~~1, 2019, the Office of Environmental Health Hazard Assessment~~
- 8 ~~shall issue a report that addresses the following questions:~~
- 9 ~~(1) Do synthetic dyes adversely affect some children's behavior?~~
- 10 ~~(2) If yes, what risk management options are available to the~~
- 11 ~~Legislature, if any?~~
- 12 ~~(b) The Office of Environmental Health Hazard Assessment~~
- 13 ~~may request assistance from the Children's Environmental Health~~
- 14 ~~Program, the California Research Bureau, the Senate Office of~~
- 15 ~~Research, or the California State Auditor.~~
- 16 ~~SECTION 1. The Legislature finds and declares all of the~~
- 17 ~~following:~~
- 18 ~~(a) Synthetic food dyes are not necessary in foods and provide~~
- 19 ~~no nutritional or health benefit.~~

1 ~~(b) Synthetic food dyes trigger hyperactivity and other~~
2 ~~behavioral problems in some children with Attention~~
3 ~~Deficit/Hyperactivity Disorder (ADHD) or other behavioral~~
4 ~~disorders, and may also trigger these behaviors in other children~~
5 ~~without those disorders.~~

6 ~~(c) The removal of food dyes from the diet reduces symptoms~~
7 ~~in affected children.~~

8 ~~(d) The exposure to, and consumption of, synthetic food dyes~~
9 ~~is increasing, with per capita production of artificial colorings~~
10 ~~approved for use in food having increased more than five-fold~~
11 ~~since 1955.~~

12 ~~(e) A meal, or even an individual serving, can contain upwards~~
13 ~~of 26 mg of dyes, a dose used in many studies and found to trigger~~
14 ~~adverse behaviors.~~

15 ~~(f) The formulation and advertising of processed foods have~~
16 ~~used dyes to attract children to notice, request, and consume these~~
17 ~~products, and that has resulted in increased consumption of~~
18 ~~synthetic food dyes in recent decades.~~

19 ~~(g) An estimated 38,600 children in California may be adversely~~
20 ~~affected by synthetic food dyes.~~

21 ~~(h) The costs associated with the hyperactivity triggered by food~~
22 ~~dyes in California children with ADHD could be as high as \$560~~
23 ~~million to \$820 million annually.~~

24 ~~(i) The behavioral effects of synthetic dyes on children may~~
25 ~~impair their academic success and interfere with the ability of their~~
26 ~~classmates to learn.~~

27 ~~(j) Foods containing synthetic food dyes are heavily marketed~~
28 ~~to children, with one study finding that more than 90 percent of~~
29 ~~child-oriented candies, fruit-flavored snacks, and drink mixes~~
30 ~~contained dyes.~~

31 ~~(k) Warning labels improve consumers' understanding of health~~
32 ~~harms associated with some food ingredients and may reduce the~~
33 ~~likelihood of consumers purchasing products with those harmful~~
34 ~~ingredients.~~

35 ~~(l) Because synthetic food dyes are used in a variety of foods,~~
36 ~~and because dyed foods are heavily marketed to children, better~~
37 ~~labeling and restrictions on the sale and distribution of those~~
38 ~~products are necessary.~~

39 ~~(m) It is in the public interest for California's Legislature to~~
40 ~~enact legislation that mandates warning labels and a stepwise ban~~

1 on food containing synthetic food dyes. The benefits to Californians
2 from enacting such legislation would be significant in societal and
3 economic terms.

4 (n) The State Department of Public Health has the authority to
5 prescribe conditions under which a color additive may be used in
6 California whether or not those conditions are identical to
7 regulations under the Federal Food, Drug, and Cosmetic Act.

8 (o) The Food and Drug Branch of the State Department of Public
9 Health must protect and improve the health of all California
10 residents by ensuring that food is safe. In connection with its duty
11 to protect and promote the health of Californians, the State
12 Department of Public Health routinely makes decisions about
13 whether and how products may be sold and marketed in the state.

14 SEC. 2. Article 8.5 (commencing with Section 110961) is
15 added to Chapter 5 of Part 5 of Division 104 of the Health and
16 Safety Code, to read:

17
18 Article 8.5. Synthetic Food Dyes
19

20 110961. This article shall be known, and may be cited, as the
21 Protecting Californians from Synthetic Food Dyes Act.

22 110961.1. For purposes of this article, the following definitions
23 shall apply:

24 (a) "Food" shall have the same meaning as in Section 109935.

25 (b) "Label" shall have the same meaning as in Section 109955.

26 (c) "Labeling" shall have the same definition as in Section
27 109960.

28 (d) "Principal display panel" shall have the same definition as
29 in Section 110015.

30 110961.2. (a) It is unlawful for a person to manufacture,
31 package, sell, offer to sell, distribute, or import for sale or
32 distribution within the State of California food that contains
33 synthetic dyes without one of the following labels:

34 (1) WARNING: Dyes in this food may trigger hyperactivity
35 and other behavioral problems in some children.

36 (2) WARNING: Children's behavior might be impaired by the
37 dyes in this food.

38 (3) WARNING: This food contains synthetic dyes that may
39 affect children's behavior.

1 ~~(4) WARNING: The synthetic dyes in this food might affect~~
2 ~~your child's behavior.~~

3 ~~(5) WARNING: Synthetic dyes may trigger hyperactivity.~~

4 ~~(6) WARNING: Synthetic dyes may trigger behavioral~~
5 ~~problems.~~

6 ~~(7) WARNING: Some children may be negatively affected by~~
7 ~~synthetic food dyes.~~

8 ~~(b) The label required pursuant to subdivision (a) shall be located~~
9 ~~on the principal display panel and shall be prominently placed so~~
10 ~~as to render it likely to be read and understood by an ordinary~~
11 ~~individual under customary conditions of purchase and use.~~

12 ~~(c) The text of the label required pursuant to subdivision (a)~~
13 ~~shall be black on a white background or white on a black~~
14 ~~background, in a manner that contrasts, by typography, layout, or~~
15 ~~color, with all other printed material on the package. The text shall~~
16 ~~not be crowded with artwork or other labeling and shall be set off~~
17 ~~on a box by use of hairlines.~~

18 ~~(d) Unpackaged, bulk food that requires a label pursuant to~~
19 ~~subdivision (a) shall be labeled on the shelf or bin where the food~~
20 ~~is displayed for retail sale.~~

21 ~~(e) A restaurant selling foods with synthetic dyes shall indicate~~
22 ~~on the menus and menu boards which items contain synthetic dyes~~
23 ~~and shall place the language required in subdivision (a) on their~~
24 ~~menus and menu boards. The language shall appear on the same~~
25 ~~page as the menu item containing synthetic dyes and shall be of~~
26 ~~the same size and font as the menu item text.~~

27 ~~(f) This section does not apply to an alcoholic beverage, as~~
28 ~~defined in Section 23004 of the Business and Professions Code,~~
29 ~~or a medical food, as defined in Section 109971.~~

30 ~~110961.3. (a) A food that violates the requirements in Section~~
31 ~~110961.2 or a rule or regulation promulgated pursuant to that~~
32 ~~section is subject to seizure in accordance with Section 111880.~~

33 ~~(b) A retailer or manufacturer that violates Section 110961.2 or~~
34 ~~a rule or regulation promulgated pursuant to that section is subject~~
35 ~~to the penalties prescribed in Section 111825.~~

36 ~~110961.4. If any provision of this article or of the regulations~~
37 ~~promulgated under this article, or the application of any provision~~
38 ~~to a person or circumstance is held to be invalid, the remainder of~~
39 ~~this article, including rules and regulations promulgated pursuant~~
40 ~~to it, and the application of those provisions to any other person~~

1 ~~or circumstance shall not be affected and shall continue to be~~
2 ~~enforced to the fullest extent possible.~~
3 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~
9 ~~the Government Code, or changes the definition of a crime within~~
10 ~~the meaning of Section 6 of Article XIII B of the California~~
11 ~~Constitution.~~